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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,979	07/31/2003	Jay Dwight Scissom		2213
7590	09/23/2005		EXAMINER	
Donald W. Meeker Patent Agent 924 East Ocean Front #E Newport Beach, CA 92661			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/631,979	SCISSOM, JAY DWIGHT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Winnie Yip	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 July 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

This is a first office action for application Serial No. 10/631,979 filed July 31, 2003.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In these claims, the features of “a first anchoring rigid rod” (claim 4) or “a second anchoring rigid” (claim 15) are confusing whether or not these features are parts of the features of “a first rigid elongated anchoring element” or “a second rigid elongated anchoring element” as previously defined. If the same, a proper antecedent basis is required for consistency. An appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Stein ( US Patent NO.5,080,123) in view of Nelson (US Patent NO. 2,948,288).

Stein shows and discloses a removable shield device capable used for a cooling and heating unit positioned in a housing outdoor, the device comprising: a first and second anchoring frames including a first and second rigid elongated anchoring elements/rods (20) respectively, at least one elevating frame including at least one rigid elongating element (50) connected to a pair of telescopic legs (52, 53), a sheet of flexible material (14) which is capable of dissipating heat and providing shade, the sheet being stretched over the at least one elevating frame (50) , the sheet having a first and second ends having a loop (27, 29) to receive the first and second rigid elongated anchoring elements/rods, and tie down means including clamps (87) and straps (60, 62, 64, 66) being attached between the second anchoring frame and an external support (78, 80) that is capably positioned adjacent to the and spaced apart from a base of the house, the strap (64, 66) providing two arms being pivotally and the tie down means is capable of pivoting the second anchoring frame to stretch the sheet and to secure the second anchoring frame to maintain the sheet in a stretched taut condition, and the anchoring frames are capable of aligned with the track of the sun as claimed. Stein does not teach the anchoring frame and at least one elevating frame being adjustable in width. Nelson teaches a removable shield device comprising at least one adjustable elevating frame having at least one rigid elongated elements/rods (72) being telescopic and adjusted in width to be attachable to variety of sizes and shapes of the housing (6). It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the shield device of Stein having the rigid elongated anchoring elements/rods and the rigid elevating elements being adjustable in a telescopic manner as taught by Nelson, as well know of adjustable size, for providing an adjustable elements being adjusted in width for supporting the flexible sheet with respect to the variety of width of the housing to be covered.

5. Claims 1-2, 4- 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Buie ( US Patent NO. 1,593,431) in view of Nelson (US Patent NO. 2,948,288).

Buie shows and discloses a removable shield device capable used for a cooling and heating unit positioned in a housing outdoor, the device comprising: a first and second anchoring frames (13) including a first and second respective rigid elongated anchoring elements/rods (13) pivotally connecting with two arms by pivotable means (14) for being attachable to the house, at least one elevating frame including at least one rigid elongating element/rod (9) connected to the legs (1), a sheet of flexible material (16) which is capable of dissipating heat and providing shade, the sheet being stretched over the at least one elevating frame (9), the sheet having a first and second ends having a loop (18, 20) to receive the first and second rigid elongated anchoring elements/rods therein, and tie down means including brackets (21) for attachment between one of the first and second anchoring frame (13) and an external support that is capably positioned adjacent to the and spaced apart from a base of the house, and the anchoring frames are capable of aligned with the track of the sun as claimed. Buie does not define the anchoring frame and the elevating frame being adjustable in width. Nelson teaches a removable shield device comprising at least one adjustable elevating frame having at least one rigid elongated elements/rods (72) being telescopic and adjusted in width to be attachable to variety of sizes and shapes of the housing (6). It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the shield device of Buie having the rigid elongated anchoring elements/rods and the rigid elevating elements being adjustable in a telescopic manna as taught by Nelson , as well know of mechanism, for providing a adjustable element being

adjusted in length or width for adjustable the size of the device to supporting the flexible sheet with respect to the variety of width of the housing to be covered.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buie '431 or Stein '123 as applied to claim 1 above, and further in view of Wagner (US Patent No. 4,498,912).

The claim is considered to be met by either Buie or Stein as applied and explained set forth above rejections except that either Buie or Stein do not specifically define the sheet of flexible material having three different layers. Wagner '912 teaches a removable heat shield device (10) for covering a cooling and heating unit positioned outdoor, the device comprising a sheet of flexible material being formed three layers including a top and a bottom canvas layers (26, 24, and 22) for reflecting the sunlight and a middle insulating layer (24) disposed therebetween for insulating the device. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the device of Buie or Stein having the sheet of flexible material being made of three layers including top and bottom canvas layers and a middle insulating layer as taught by Wagner for protecting the outdoor cooling device from the sunlight.

#### *Citations*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wooden, Jr. '769, Hughes '423 teach various heat shield devices for covering a cooling and heating unit as similar to the claimed invention. UK 2174281, Lundgren '924, Bagley '544,

Art Unit: 3637

Filho '696, Walters '264, and Dufort '922 teach various shield devices as similar to the claimed invention that is capable for covering a cooling and heating unit.

***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
September 19, 2005